

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

AT&T Communications of New England, Inc. ("AT&T") hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D. Specifically, AT&T requests that the attachment to its response to VZ-ATT/WC 1-34 be granted the highest level of protective treatment because it contains competitively sensitive and highly proprietary information. Redacted versions of this attachment have been provided to all other parties.

I. LEGAL STANDARD.

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

The Department has recognized that competitively sensitive information is entitled to protective status. *See, e.g., Hearing Officer's Ruling On the Motion of CMRS Providers for Protective Treatment and Requests for Non-Disclosure Agreement*, D.P.U. 95-59B, at 7-8 (1997) (the Department recognized that competitively sensitive and proprietary information should be protected and that such protection is desirable as a matter of public policy in a competitive market).

II. ARGUMENT.

The information contained in the attachment to AT&T and WorldCom's responses to VZ-ATT/WC 1-34 is competitively sensitive, proprietary, and confidential. The attachment lists the addresses of Multiple Dwelling Units ("MDUs") that are served by AT&T. The possession of this information would provide AT&T's competitors with a significant competitive advantage. In a similar context in D.T.E. 98-57, Verizon sought and the Department granted protective treatment of similar information.

On October 22, 1999, in D.T.E. 98-57, Verizon sought protective treatment of information relating to the location of its collocation arrangements, arguing that "[w]here carriers choose to establish collocation arrangements or situate their POTs not only identifies where their facilities are located, but more importantly may provide valuable insight into where their customers reside or where they are focusing their competitive marketing efforts, thereby giving competitors an unfair business advantage." *See* Bell Atlantic's Motion for Confidential Treatment, D.T.E. 98-57, at 3 (October 22, 1999)(emphasis added). Significantly, in an Order dated November 5, 1999, the Department agreed with Bell Atlantic and ruled that the location of collocation arrangements *is* confidential and competitively sensitive information. *See* Hearing Officer Ruling on Motion for Confidential Treatment by Bell Atlantic-Massachusetts, D.T.E. 98-

57, at 5 (November 5, 1999). Based on this, the Department allowed that part of Bell Atlantic's motion pertaining to the protection of information relating to the location of collocation facilities.

In the present situation, the information sought to be protected is just as sensitive as the location of collocation arrangements. Whereas the location of collocation locations "*may* provide valuable *insight* into where their customers reside," providing the actual addresses of MDUs served by AT&T *will* provide competitors with *actual knowledge* of where AT&T's customers reside, "thereby giving competitors an unfair business advantage."

Conclusion.

For these reasons, AT&T requests in accordance with G.L. c. 25, § 5D that the Department grant the highest level of protective treatment to the attachment to AT&T and WorldCom's response to VZ-ATT/WC 1-34.

Respectfully submitted,

Jeffrey F. Jones
Kenneth W. Salinger
Jay E. Gruber
Emily R. Donovan
Kevin R. Prendergast
PALMER & DODGE LLP
One Beacon Street
Boston, MA 02108-3190
(617) 573-0100

Robert Aurigema
AT&T Communications, Inc.
32 Avenue of the Americas, Room 2700
New York, NY 10013
(212) 387-5627

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